IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

Crl.MC.No. 426 of 2007()

CRIME NO.236/2000 OF HOSDURG POLICE STATION.

PETITIONER: 2ND ACCUSED:

P.K. ABOOBACKER, AGED 43 YEARS,
S/O.MUHAMMED, RESIDING AT OTHIYOTHU HOUSE,
THARUVANA P.O., MANANTHAVADY,
WAYANAD DISTRICT.

BY ADV. SRI.P.K.JOSE
SMT.TESSY JOSE

RESPONDENTS:
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1. THE STATE REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

2. THE SUB INSPECTOR OF POLICE,
HOSDURG POLICE STATION, KASARGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 426 OF 2007

Dated this the 28th day of February, 2007

ORDER

The petitioner is an accused in Crime No.236/2000 of the Hosdurg Police Station under Sec.379 of the IPC. He claims himself to be the 2nd accused. But the learned Public Prosecutor submits that he is the 1st accused. The petitioner had earlier come to this Court complaining that the final report has not been filed so far. Another Bench of this Court had passed Annexure-A1 order dated 14/10/2005 under which the Investigator was directed to file final charge against the petitioner as expeditiously as possible – at any rate, within three months from the date of receipt of a copy of the order. The petitioner has now come to this Court complaining that in spite of Annexure-A1 order, charge sheet has not been filed.

2. The learned Public Prosecutor, after taking instructions, submits that it is not correct to say that the final report has not been filed yet in Crime No.236/2000 of the Hosdurg Police Station. Final report had been filed as early

as on 10/8/2000, it is submitted. The accused have not entered appearance and the case against them has hence been transferred to the list of Long Pending Cases. The case is now pending before the Judicial First Class Magistrate's Court-I, Hosdurg, as L.P.No.94/05 and the case now stands posted to 30/3/07. The learned Public Prosecutor submits that it was an error not to have brought to the notice of the Court which had passed Annexure-A1 order that the final report had already been filed. It is for the petitioner now to appear before the learned Magistrate and take part in the proceedings, submits the learned Public Prosecutor.

3. In the light of the submissions of the learned Public Prosecutor, which I find no reason not to accept, I am satisfied that no further directions need be issued in this Crl.M.C. However, I take note of the plight of the petitioner. As late as on 14/10/05, the petitioner was not told that the final report had been filed. In these circumstances, I find merit in the submission of the learned counsel for the petitioner that the petitioner was not aware of the filing of the final report or of the registering of the

case by the learned Magistrate though he has been shown as absconding and the case is transferred to the list of Long Pending Cases. The submission of the learned counsel for the petitioner does impress me in the wake of Annexure-A1 order.

4. The learned counsel for the petitioner submits that the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously on the assumption that he has been absconding. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. It is not necessary to issue any specific directions under Sec.482 of the Cr.P.C. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

5. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned

Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge